

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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In the Matter of the Application of)	
Columbus Southern Power Company and)	
Ohio Power Company for Authority to)	Case No. 11-346 -EL-SSO
Establish a Standard Service Offer)	Case No. 11-348-EL-SSO
Pursuant to §4928.143, Ohio Rev. Code,)	
in the Form of an Electric Security Plan)	
In the Matter of the Application of)	
Columbus Southern Power Company and)	Case No. 11-349-AAM
Ohio Power Company for Approval of)	Case No. 11-350-AAM
Certain Accounting Authority)	
In the Matter of the Application of)	
Columbus Southern Power Company to)	Case No. 10-343-EL-ATA
Amend its Emergency Curtailment)	
Service Riders.)	
In the Matter of the Application of)	
the Ohio Power Company to Amend its)	Case No. 10-344-EL-ATA
Emergency Curtailment Service Riders.)	

DIRECT TESTIMONY OF
 KENNETH D. SCHISLER
 IN SUPPORT OF THE SEPTEMBER 7, 2011
 STIPULATION AND RECOMMENDATION
 ON BEHALF OF
 ENERNOC, INC.

1 **I. Background**

2

3 **Q. PLEASE STATE YOUR NAME, POSITION AND BUSINESS ADDRESS.**

4 A. My name is Kenneth D. Schisler. I am employed by EnerNOC, Inc. as the Vice President of
5 Regulatory Affairs. My business address is 101 Federal Street, Suite 1100, Boston, MA 02110.

6

7 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND**
8 **PROFESSIONAL QUALIFICATIONS.**

9
10 A. I earned a Bachelor of Science in Biology from Salisbury University, Salisbury,
11 Maryland. I earned a Juris Doctorate with Honor from the University of Maryland School of
12 Law. From 1991-2003, I served as an elected member of the Maryland House of Delegates, and
13 served my entire tenure on the committee with jurisdiction over energy, environment, and public
14 utility matters. When the legislature was not in session, I held private employment. From the
15 beginning of my career until 1999, I worked as a commercial waterman on the Chesapeake Bay
16 and wholesale grocery broker. Beginning in 1999 until 2003, I was engaged in the private
17 practice of law in Maryland. In 2003, I resigned from the Maryland House of Delegates to
18 assume the chairmanship of the Maryland Public Service Commission. In 2007, I resigned from
19 the Maryland Public Service Commission. In 2007, I was employed by EnerNOC, Inc. as Senior
20 Director of Regulatory Affairs, and in 2010 I was promoted to Vice President of Regulatory
21 Affairs. While employed at EnerNOC, I have worked extensively (and almost exclusively) on
22 demand response, energy efficiency, and smart grid policy matters at the Federal Energy
23 Regulatory Commission (“FERC”), approximately 26 state commissions, 2 Canadian provinces,
24 and several wholesale electric power markets, including the PJM Interconnection (“PJM”),
25 Independent System Operator of New England (“ISO-NE”), New York Independent System
26 Operator (“NYISO”), Midwest Independent System Operator (“MISO”), the Electric Reliability

1 Council of Texas (“ERCOT”), California Independent System Operator (“CAISO”) the
2 Independent Electric System Operator of Ontario, Canada (“IESO”) and the Alberta Electric
3 System Operator (“AESO”) in Alberta, Canada, and the Great Britain wholesale electric power
4 market.

5

6 **Q. PLEASE DESCRIBE YOUR RESPONSIBILITIES AS VICE PRESIDENT OF**
7 **REGULATORY AFFAIRS.**

8

9 A. My responsibilities include managing state, federal, and wholesale markets (e.g. Regional
10 Transmission Organizations (“RTOs”), and Independent System Operators (“ISOs”), and
11 ERCOT) and all other regulatory matters throughout North America and internationally on
12 behalf of EnerNOC, Inc. (“EnerNOC”).

13

14 **Q. WHAT IS ENERNOC’S BUSINESS?**

15 A. EnerNOC is a provider of demand response and energy efficiency services.

16 EnerNOC enables and supports customers who want the opportunity to manage energy costs and
17 participate in demand side management activities. Among other things, EnerNOC works with
18 customers to participate in wholesale market demand side opportunities such as those available
19 through the PJM Interconnection, LLC (“PJM”). In PJM, EnerNOC and companies like
20 EnerNOC, are members of PJM and are known as Curtailment Service Providers (“CSPs”) or
21 Aggregators of Retail Customers (“ARCs”). As of June 30, 2011, EnerNOC had over 6,650
22 MW of demand response resources under management across North America and Europe.
23 In the PJM markets, EnerNOC acts as the wholesale market interface for its customers with
24 respect to their participation in PJM’s demand response programs. EnerNOC contracts with
25 commercial, industrial, and institutional customers who are willing and able to curtail their
26 electric consumption in accordance with PJM’s demand response program requirements.

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EnerNOC installs metering and control equipment to enable the customer to curtail, works with customers throughout the process, and aggregates its customers' load to meet its obligations to PJM. EnerNOC also submits the verification information to PJM for its customers and receives -- and distributes -- payments from PJM on behalf of customers.

Q. HAVE YOU TESTIFIED BEFORE THE COMMISSION BEFORE?

A. Yes, I submitted testimony in this case, the AEP Ohio ESP case, on July 25, 2011, prior to the settlement. I also submitted testimony in the Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively "FirstEnergy") Electric Security Plan proceeding before the Commission -- Case No. 10-388-EL-SSO.

II. Purpose

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to support the September 7, 2011 Settlement Agreement ("Settlement Agreement" or "Stipulation") as it relates to AEP Ohio's agreement to withdraw its proposed Emergency Curtailable Service ("ECS") riders. AEP Ohio's commitment to withdraw these proposed riders is beneficial for customers for a couple of reasons: First, the terms of the riders would have impeded competitive opportunities for CSPs, like EnerNOC, in the AEP Ohio service territory -- resulting in less the opportunities for industrial, commercial, and institutional customers to participate in PJM's demand response market. In addition, an increase in demand response reductions has the potential to reduce wholesale electric prices and improve overall reliability of the PJM grid for all customers.

1 As part of my testimony I will describe the provisions of the Settlement Agreement that relate to
2 the ECS riders,¹ and the terms of the withdrawn ECS riders that Ohio Power (“OP”) and
3 (“Columbus Southern Power” collectively “AEP Ohio”) initially proposed. Finally, my
4 testimony will describe how customers will benefit from the withdrawal of the proposed ECS
5 riders.

6
7 **III. Summary of the ECS Provision in the Settlement Agreement**

8 **Q. PLEASE DESCRIBE THE SECTIONS OF THE SETTLEMENT AGREEMENT**
9 **THAT YOUR TESTIMONY SUPPORTS.**

10
11 A. My testimony supports the section of the Settlement Agreement pertaining to AEP Ohio’s
12 2010 application for Emergency Curtailment Service Riders for AEP Ohio, PUCO Case Nos. 10-
13 343 and 344. The pertinent section of the Settlement Agreement can be found at Paragraph 4
14 which starts on page 24 and continues on to page 25 of the Settlement Agreement.

15
16 Paragraph 4 contains three subsections that are designed to provide a reasonable opportunity for
17 industrial, commercial and institutional customers to participate in PJM demand response
18 programs (“PJM DRPs”) while still providing AEP Ohio an approach, if needed, to achieve its
19 Annual S.B. 221 Peak Demand Reduction Benchmark.

20
21 **Q. ARE THERE ANY OTHER SECTIONS OF THE SETTLEMENT THAT YOUR**
22 **TESTIMONY SUPPORTS?**

23
24 A. Specifically, no.

25
26

¹ AEP Ohio filed an application for a separate ECS rider for the Columbus Southern Power Company (“CSPC”) and the Ohio Power Company (“OPC”) in PUCO Case Nos. 10-343-EL-ATA and 10-344-EL-ATA. The riders were substantively equivalent.

1 **Q. DO YOU SUPPORT THE OVERALL STIPULATION?**

2 A. Yes. I believe that the Settlement Agreement is a compromise between the signatory parties.
3 The resolution of this case, in a reasonable manner, has tremendous value to a company like
4 EnerNOC that has limited resources to expend to aggressively litigate these issues. I believe the
5 terms of the compromise provide for greater demand response opportunities in AEP Ohio's
6 territory and therefore the compromise does provide significant value for all parties.

7

8 **Q. YOU MENTIONED THAT THERE ARE THREE SECTIONS TO PARAGRAPH 4.**
9 **COULD YOU PLEASE DESCRIBE THE FIRST SECTION, SECTION A, OF**
10 **PARAGRAPH NUMBER 4.**

11

12 A. Yes. Under the terms of Paragraph 4, section A, AEP Ohio agrees to withdraw its current
13 ECS riders, the Price Curtailable Service ("PCS") riders and the proposed ECS riders. Section
14 A. states:

15

16 "Current ECS and PCS and proposed ECS will be withdrawn; AEP Ohio shall permit
17 retail customer participation in PJM, demand response programs."

18

19 The withdraw of the proposed ECS riders was a significant concession on AEP Ohio's part, but
20 one we deemed reasonable because the proposed ECS riders would have deterred demand
21 response participation in the AEP Ohio territory -- and I question the reasonableness and legality
22 of some of the provisions.

23

24 **Q. I THINK IT WOULD BE APPROPRIATE AT THIS TIME TO DESCRIBE THE**
25 **PROPOSED ECS RIDERS THAT AEP OHIO HAS AGREED TO WITHDRAW. CAN**
26 **YOU DESCRIBE THE PROPOSED RIDERS?**

27

28 A. Yes. As discussed in my original testimony in this case, filed on July 25, 2011, the
29 withdrawn "proposed" ECS Rider contained the terms and conditions upon which AEP Ohio

1 customers, that qualify, could participate in demand response options in PJM’s demand response
2 programs going forward. Only customers on the GS-2, GS-TOD, GS-3, and GS-4 schedules are
3 permitted to participate.²

4

5 **Q. WERE THE PROPOSED ECS RIDERS INCORPORATED AS PART OF AEP**
6 **OHIO’S FILING?**

7

8 A. Yes, the ECS Riders were included in AEP Ohio ESP Application through the original
9 testimony of AEP Ohio witness David M. Roush (page 6). As part of his testimony Mr. Roush
10 also references Commission docket Nos. 10-343-EL-ATA and 10-344-EL-ATA where interested
11 parties have already provided some input on the proposed riders.

12

13 **Q. COULD YOU BRIEFLY DESCRIBE HOW CUSTOMERS WOULD HAVE**
14 **PARTICIPATED UNDER THE PROPOSED ECS RIDERS?**

15

16 A. Yes, qualified customers may choose to participate in PJM’s demand response programs
17 through one of two Options: Option One, addressed the opportunity available to customers
18 through AEP Ohio’s program, and Option Two addressed the program offered by a CSP. (In
19 some cases, a customer may also have the ability to participate directly into PJM programs
20 through Option Two by acting as its own CSP.)³

21

22 **Q. COULD YOU PLEASE DESCRIBE THE SUBSTANTIVE COMPONENTS OF**
23 **OPTION ONE?**

24

25 A. Yes. Again as discussed in great detail in my initial testimony in this case on July 25, 2011,
26 Customers that choose to participate in a demand response program directly through AEP Ohio

² In the Matter of the Application of Columbus Southern Power Company to Amend its Emergency Service Curtailment Service Riders, et. al , Case No.s 10-343-EL-UNC & 10-344-EL-344,Application, ECS rider at 1. (“Application”)

³ Application, ECS rider at 6. (Option two.)

1 may do so by selecting Option One. Under the terms of the OP and CSP riders, customers who
2 choose Option One will be compensated with an energy credit equal to at least 80% of the AEP
3 East Load Zone hourly real-time locational marginal price (“LMP”) and a demand credit equal to
4 at least 80% of the Cost of AEP’s capacity obligation in accordance with PJM’s Reliability
5 Assurance Agreement Among Load Serving Entities. (The opportunity for AEP Ohio to
6 negotiate both of these percentages was a concern for me.)

7

8

9 **Q. COULD YOU PLEASE DESCRIBE THE SUBSTANTIVE COMPONENTS OF**
10 **OPTION TWO?**

11

12 A. Option Two allows the customer to choose a CSP other than AEP Ohio to commit its demand
13 response capabilities into the PJM markets. The substantive components of Option Two are
14 provided in the last paragraph of the riders. This provision has two components. The first
15 requirement is a “commitment” at no charge to AEP Ohio, of the load being registered under the
16 PJM demand response program toward AEP Ohio’s Peak Demand Reduction Benchmarks. The
17 second part of the provision requires the customer to enter into a “Customer Demand Resource
18 Commitment Agreement.” (“Customer Agreement” or “Agreement”)

19

20 Overall, there were a number of aspects of AEP Ohio’s proposed riders that I felt would limit the
21 benefits to AEP Ohio customers and consequently the amount of demand response opportunities
22 that would be available.

23

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1 **Q. GOING BACK TO THE THREE SECTIONS OF PARAGRAPH 4 THAT YOU**
2 **HAVE BEEN DESCRIBING. COULD YOU PLEASE DESCRIBE THE SECOND**
3 **PROVISION, SECTION B, OF PARAGRAPH NUMBER 4.**

4
5 A. Yes. Section B of Paragraph Number 4 addresses the prohibition that the Commission has
6 placed on AEP Ohio customers that are operating under a reasonable arrangement. This
7 Settlement Agreement provision proposes to lift that prohibition in a manner that is consistent
8 with the PUCO's treatment of all Ohio customers that operate under reasonable arrangements.
9
10 The issue originated, and was debated, as part of AEP Ohio's initial ESP proceeding. There was
11 significant testimony and filings regarding customer participation in PJM DRPs in that initial
12 ESP proceeding. In the end, the Commission determined that customers could participate
13 through CSPs in PJM DRPs with the exception of customers operating under reasonable
14 arrangements. The Commission ruled in AEP Ohio's original ESP, the July 23, 2009 Second
15 Entry on Rehearing, that AEP Ohio customers operating under a reasonable arrangement
16 agreement would not be eligible to participate in PJM DRPs:

17
18 In further consideration of the need to balance the potential benefits to
19 PJM DRP participants and the costs to AEP-Ohio ratepayers, the
20 Commission clarifies that AEP-Ohio customers under
21 reasonable arrangements with AEP-Ohio, including, but not
22 limited to, EE/EDR, economic development arrangements,
23 unique arrangements, and other special tariff schedules that
24 offer service discounts from the applicable tariff rates, are
25 prohibited from also participating in PJM DRP, unless and until
26 the Commission decides otherwise in a subsequent proceeding.⁴
27

28 However, it appears that an alternative approach to addressing this issue has gained favor since
29 the time of the Commission's ruling in the initial AEP Ohio ESP.

30

⁴ In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and the Sale or Transfer of Certain Generating Assets, Case No. 08-917-EL-SSO, et., al., Entry on Rehearing, at 40-41 (July 23, 2009).

1 From recent Commission proceedings it is clear that the PUCO Staff has adopted an alternative
2 approach for customers operating under reasonable arrangements. As opposed to prohibiting
3 participation, the PUCO Staff now proposes to allow customers with reasonable arrangements to
4 participate in PJM DRPs – if they agree to commit their demand response attributes to their
5 utility at no cost.

6
7 For example, this alternative approach was incorporated into the terms and conditions of the
8 draft economic development tariff that was proposed by the PUCO Staff on July 15, 2011:

9
10 All economic development customers must agree to commit to the electric
11 distribution utility all implemented energy efficiency and peak demand response
12 capabilities in a manner consistent with applicable statutes and rules at no cost to
13 the utility for the duration of the economic development agreement.⁵
14

15 The latter half of provision “B” incorporates the PUCO Staff’s approach, and language, from the
16 draft economic development tariff template. The first part of section B identifies the prohibited
17 class of customers that were described in the Commission’s second entry on rehearing in AEP
18 Ohio’s initial ESP.

19

20 **Q. GOING BACK TO THE THREE SECTIONS OF PARAGRAPH 4 THAT YOU**
21 **HAVE BEEN DESCRIBING. COULD YOU PLEASE DESCRIBE THE THIRD**
22 **PROVISION, SECTION C, OF PARAGRAPH NUMBER 4.**

23

24 A. Yes. Section “C” of Paragraph Number 4 addresses an alternative method for AEP Ohio
25 to obtain demand response attributes from its customers. Section C states: “AEP Ohio may issue
26 an RFP to meet its peak demand reduction S.B. 221 mandates.”⁶

27

⁵ In the Matter of the Staff Proposal for an Economic Development Tariff Template, Case No. 11-4304-EL-UNC, terms and conditions at page 2 of 2 (July 15, 2011).

⁶ Settlement Agreement at 25 (September 7, 2011).

1 AEP Ohio has stated that the proposed ECS rider was developed to help AEP Ohio meet its
2 annual peak demand reduction benchmarks. As mentioned earlier the key language of the ECS
3 rider that achieves AEP Ohio’s purpose can be found in Option two, section two:

4 Customers that want to participate in PJM Demand Response Programs must
5 agree to permit, at no charge to [AEP Ohio], the load being registered under the
6 PJM Demand Response Program toward [AEP Ohio’s] compliance with Peak
7 Demand Reduction benchmarks imposed by Ohio law...⁷
8

9 I believe the request for proposal (“RFP”) approach implemented by FirstEnergy this past year is
10 an effective, and cost efficient alternative approach that will help AEP Ohio achieve the same
11 result. The RFP program would allow AEP Ohio to receive peak demand reduction credits
12 toward the AEP Ohio’s S.B. 221 obligations at the lowest price possible from entities that are
13 willing to provide that credit and at an agreed price.

14

15 **IV. Description of the benefits of the Settlement Agreement and Demand Response**

16

17 **Q. CAN YOU EXPLAIN WHY AEP OHIO’S AGREEMENT TO WITHDRAW THE**
18 **PROPOSED ECS RIDERS IS A BENEFIT TO CUSTOMERS.**

19

20 A. Yes. As addressed in my July 25 testimony demand response resources are important to the
21 residents of Ohio because these resources play a critical role in providing additional reliability to
22 the grid and additional revenue to businesses and institutions throughout the AEP Ohio territory.

23

24 The terms of Paragraph 4 will create a better framework for AEP Ohio customers to participate
25 in PJM’s DRPs and assist AEP Ohio in meeting its peak load reduction goals. Continuing to
26 allow CSPs, like EnerNOC, to operate on a competitive basis in the AEP Ohio service territory

⁷ In the Matter of the Application of Columbus Southern Power Company to Amend its Emergency Service Curtailment Service Riders, et. al , Case No.s 10-343-EL-UNC & 10-344-EL-344., Application, Exhibit A (CSPC) Part 2, Clean Proposed Tariff for CSPC at page 6 and Exhibit B (OPC) Part 2, Clean Proposed Tariff for OPC (March 19, 2010).

1 will result in a substantial increase in the number -- and quality -- of the opportunities for
2 industrial, commercial, and institutional customers to participate in PJM's demand response
3 market. There are aspects of AEP Ohio's proposed ECS riders that would impede competitive
4 opportunities for CSPs in the AEP Ohio service territory. The Settlement Agreement alleviates
5 those concerns by allowing customers to continue to work with CSPs without the unnecessary
6 restrictions, while still providing a means for customers working with CSPs to assist AEP Ohio
7 in meeting its peak load reduction benchmarks under SB 221. This is a far superior approach
8 that meets the needs of customers, CSPs, and AEP Ohio.

9

10 EnerNOC is very encouraged by the framework adopted in the Settlement Agreement. As the
11 Commission is no doubt aware, there has been friction in recent years between CSPs seeking to
12 work with AEP Ohio customers and AEP Ohio seeking to preserve its ability to meet its peak
13 load reduction goals. The Settlement Agreement is an elegant solution that satisfies the needs of
14 AEP Ohio and CSPs and will hopefully lead to mutual cooperation going forward that places a
15 high priority on the customers' best interests and the public interest.

16

17 Demand response opportunities provide economic benefits to participants, which can lead to
18 significant competitive and economic development advantages for the State of Ohio.

19 Particularly in industries with high energy costs or those with very competitive pricing, the
20 ability to fully participate in demand response programs can be influential to a company's
21 success and to its decisions as to where to locate facilities.

22

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1 **Q. WILL NON-PARTICIPATING CUSTOMERS BENEFIT FROM THE**
2 **WITHDRAWAL OF AEP OHIO'S PROPOSED ECS RIDER?**

3
4 A. Yes. Demand response provides benefits for all customers. Demand response plays an
5 important role in ensuring the competitiveness of the PJM market and the reliability of grid
6 operations. FERC as the entity that oversees operations in PJM – and other Regional
7 Transmission Operators throughout the United States -- has recently stated:

8 Demand response can provide competitive pressure to reduce wholesale power
9 prices; increase awareness of energy usage; provides for more efficient operation
10 of markets; mitigates market power; enhances reliability; and in combination with
11 certain new technologies, can support the use of renewable energy resources,
12 distributed generation, and advanced metering.⁸

13
14 For these reasons, demand response should be encouraged to the greatest extent reasonable in the
15 AEP Ohio territory.

16
17
18 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

19 A. Yes.

20

⁸ Wholesale Competition in Regions with Organized Electric Markets, Order No. 719, 73 Fed. Reg. 64, 100 (Oct. 28, 2008).

Certificate of Service

I hereby certify that a copy of the foregoing Direct Testimony of Kenneth D. Schisler in Support of the September 7, 2011 Stipulation and Recommendation on Behalf of EnerNOC, Inc. was served upon the persons listed below via electronic means this 13th day of September, 2011.

/s/ Gregory J. Poulos

Gregory J. Poulos

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Case No(s). 11-0346-EL-SSO, 11-0348-EL-SSO, 11-0349-EL-AAM, 11-0350-EL-AAM, 10-0343-EL-ATA

Summary: Testimony Testimony of Kenneth D. Schisler in Support of the Stipulation and Recommendation electronically filed by Mr. Gregory J. Poulos on behalf of EnerNOC, Inc.